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# UNITED STATES PATENT AND TRADEMARK OFFICE

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| 09/943,113 | 08/30/2001 | Richard Cudd | 9494.00 | 9812 |

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| EXAMINER |
|---|
| PWU, JEFFREY C |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2143 | |

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on _11/13/05 Amendment_.

2a)☒ This action is **FINAL**.     2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) _50-80_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _50-80_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

## DETAILED ACTION

1.      The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

2.      Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing

to particularly point out and distinctly claim the subject matter which applicant regards as the

invention. Claim 1 is vague and indefinite because it is unclear how to <u>assess</u> a connection speed

based on a selected address, furthermore, it is unclear how to predetermined the criterion of a

connection speed.



### *Claim Rejections - 35 USC § 102*

3.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

4.      Claims 50-80 are rejected under 35 U.S.C. 102(e) as being anticipated by Lambert et al.

(U.S. 6,629,138).


Lambert et al. teach claims :

51. A method of a client terminal downloading requested data via a client-server

communications network which includes a server and at least one proxy server client having a

local cache for storing data downloaded via the network, the method comprising:

selecting a first address from the proxy list which comprises an address for at least one proxy

server client at which request data is cached;  (304 or 204; 'caching server')

pinging a first proxy server client corresponding to the selected first address to assess a

connection speed to the first proxy server client; and (col.13, lines 63-col.14, line 14; "the

ICEXPIRE tag provides a high-speed level of lookup before regular expression matching is

performed.  The HOST attribute defines a host name to which the expiration applies.  Only those

URLs with a matching host name are considered for regular expression matching.  The host

names can be used as keys in a hash table, providing a first level of high-speed lookup.  Once the

correct host is found, the server can travel through the set of ICEXPIRE regular expressions that

apply to that host, until a match is found")

downloading requested data from the local cache of the first proxy server client to the client

terminal if the connection speed to the first proxy server client meets a predetermined criterion.

(col.13, lines 63-col.14; col.37, line 45-col.38, line 7)


52. A method according to claim 51, further comprising:  selecting a second address from the

proxy list;  pinging a second proxy server client corresponding to the selected second address to

assess a connection speed to the second proxy server client;  comparing the connection speed to

the first proxy server client and the connection speed to the second proxy server client; and

downloading requested data from the local, cache of the proxy server client with the fastest

connection speed to the client terminal. (col.13, lines 63-col.14; col.37, line 45-col.38, line 7)

53. A method according to claim 51, further comprising: ` pinging a second proxy server client

whose address is not on the proxy list to

assess a connection speed to the second proxy server client; and downloading requested data

from the local cache of the second proxy server client to the client terminal if the connection

speed to the second proxy server client meets a target connection speed. (col.13, lines 63-col.14;

col.37, line 45-col.38, line 7)

54. A method according to claim 51, further comprising: maintaining a look-up table which

correlates items of data with addresses of one or more proxy server clients at which the items of

data are cached; assessing connection speeds to the one or more proxy server clients whose

addresses are contained in the lookup table; and

discarding or demoting the addresses of proxy server clients having relatively slow connection

speeds. (col.13, lines 63-col.14; col.37, line 45-col.38, line 7)

55. A method according to claim 54, further comprising:

pinging the one or more proxy server clients whose addresses are contained in the look-up table

to assess connection speeds; comparing the connection speeds of the pinged proxy server clients

with each other or with a target threshold speed; and ' discarding or demoting the addresses of

proxy server clients having relatively slow connection speeds or that do not meet the target

threshold speed. (col.37, line 1-col.38, line 7)

56. A method according to claim 54, further comprising: receiving cache status change reports

from the one or more proxy server clients at which the items of data are cached. (col.37, line 1-

col.38, line 7)

57. A method according to claim 51, wherein the predetermined criterion comprises a target

connection speed. (col.37, line 1-col.38, line 7)

58. A method according to claim 51, wherein the proxy list further comprises an address of the

server. (col.37, line 1-col.38, line 7)

59. A method according to claim 58, farther comprising: pinging the server corresponding to the

server address to assess a connection speed to the server, comparing the connection speed to the

first proxy server client and the connection speed to the server; and downloading requested data

from the local cache of the first proxy server client to the client terminal when the connection

speed to the first proxy server client is faster than the connection speed to the server. (col.37, line

1-col.38, line 7)

60. A method according to claim 51, wherein the network comprises the Internet, the at least one

proxy server client comprises a user terminal running a web browser, and the respective local

cache is associated with the web browser on the user terminal. (204, Fig.3)

61. A method according to claim 51, further comprising: storing the address of the proxy server

client that provided requested data; and assembling an address list of proxy server clients most

commonly accessed to obtain requested data. (300)

62. A method according to claim 51, further comprising: monitoring workload of one or more

proxy server clients; and contacting only proxy server clients whose workload meets a workload

limit. (col.37, line 1-col.38, line 7)

Claims 63-80 are similarly rejected as in claims 50-61.

### *Response to Arguments*

5.     Applicant's arguments with respect to claims 50-80 have been considered but are moot in

view of the new ground(s) of rejection.

### *Conclusion*

6.     Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.


7.      Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

2/5/06
JEFFREY PWU
PRIMARY EXAMINER